



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 18, 1998

Mr. Kevin D. Pagan
Assistant City Attorney
City of McAllen
P.O. Box 220
McAllen, Texas 78505-0220

OR98-0468

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113351.

The McAllen Police Department (the "department") received an open records request for a particular offense report pertaining to a domestic disturbance. You contend that, except for the categories of information specifically made public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), the requested information is excepted from required public disclosure pursuant to section 552.108 of the Government Code.

Section 552.108 of the Government Code, as amended by the Seventy-fifth Legislature, excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

You contend that both subsections 552.108(a)(1) and 552.108(a)(2) apply to the requested records because "the case investigation is ongoing" and because the records at issue "deal with criminal activity that did not result in conviction or deferred adjudication." Other information you have submitted to this office, however, belies your representations to this office. Specifically, page two of the open records request form states that the arrestee pleaded "nolo" to the offense and paid a fine as a result of the arrest. We therefore conclude that you have not met your burden of demonstrating the applicability of section 552.108 to the offense report. Consequently, the department must release the requested record in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Karen Hattaway".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/RWP/ch

Ref.: ID# 113351

Enclosures: Submitted documents

cc: Mr. Anthony W. Morin
1407 Redbud
McAllen, Texas 78504
(w/o enclosures)